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PUBLIC SAFETY AND HOMELAND SECURITY BUREAU APPROVES REGION 27 (NEVADA) REVISED 700 MHZ REGIONAL PLAN

PS Docket No. 06-229 and WT Docket No. 02-378

Introduction. On January 18, 2008, the Region 27 (Nevada)¹ 700 MHz Regional Planning Committee (RPC) (Region 27) submitted a proposed revised 700 MHz Public Safety Plan (Revised Plan) for General Use² spectrum in the 769-775/799-805 MHz band.³ Region 27 concurrently requested a temporary, limited waiver of Sections 90.527(a)(3) and (6), 47 C.F.R. §§ 90.527(a)(3), (6) (requiring that regional plans incorporate a general description of how the spectrum would be allotted among the various eligible users, and a detailed description of how the plan put the spectrum to the best possible use).⁴ Region 27 stated that it utilizes the Computer Aided Pre-Allocation Resource and Database (CAPRAD) program as a guideline for assigning spectrum.⁵ At that time, CAPRAD was not yet updated to reflect the new consolidated band frequencies.

Region 27 also requested waiver of Section 90.527(a)(5), because it was unable to coordinate the Revised Plan with its six adjacent regions: Region 3 (Arizona), Region 5 (Southern California), Region 6 (Northern California), Region 12 (Idaho), Region 35 (Oregon), and Region 41 (Utah).⁶ Section 90.527(a)(5) provides that regional plans must include an explanation of how the plan had been coordinated with adjacent regions.⁷ On August 14, 2008, Region 27 submitted a newly revised Plan to include an updated Appendix G – Region 27 Channel Allocation Plan.⁸ On January 13, 2009, Region 27

¹ The Region 27 (Nevada) 700 MHz regional planning area includes the entire state of Nevada. In addition, there are twenty-two Native American tribal organizations. See Revised Plan, Appendix B – Contact List and Contact Information (includes list of Nevada Native American Tribes and Inter-tribal Councils).

² The General Use spectrum is administered by RPCs and is licensed for public safety services on a site-by-site basis in accordance with the relevant Commission-approved regional plan and frequency coordination.

³ See Letter from Mark D. Pallans, Chairman, Region 27 700 MHz Regional Planning Committee, to Federal Communications Commission, WT Docket No. 02-378 (filed Jan. 18, 2008). Region 27 submitted its original plan to the Commission on February 2, 2007.

⁴ See Waiver Request at 1; see also 47 C.F.R. §§ 90.527(a)(3), (6).

⁵ The CAPRAD system is a spectrum management tool provided by the National Institute of Justice, National Law Enforcement and Corrections Technology Center (NLECTC). The CAPRAD system is available at <http://caprad.nlectc.du.edu>.

⁶ Waiver Request at 1; see also 47 C.F.R. § 90.527(a)(5).

⁷ See 47 C.F.R. § 90.527(a)(5).

⁸ See Letter from Mark D. Pallans, Chairman, Region 27 700 MHz Regional Planning Committee, WT Docket No. 02-378 (filed Aug. 14, 2008) (submitting Revised Plan and Appendix G - Region 27 Channel Allocation Plan).

resubmitted the Revised Plan and provided updated adjacent region letters of concurrence.⁹ As a result, the Waiver Request is now moot in its entirety. For the reasons discussed below, we approve the Region 27 700 MHz Revised Plan and dismiss the Waiver Request as moot.

Background. In 1998, the Commission established a structure to allow RPCs optimal flexibility to meet state and local needs, encourage innovative use of the spectrum, and accommodate new and as yet unanticipated developments in technology and equipment.¹⁰ Each of the fifty-five RPCs is required to submit a plan for the General Use spectrum.¹¹ The Commission's role in relation to the RPCs is limited to (1) defining the regional boundaries; (2) requiring fair and open procedures, *i.e.*, requiring notice, opportunity for comment, and reasonable consideration; (3) specifying the elements that all regional plans must include; and (4) reviewing and accepting proposed plans (or amendments to approved plans), or rejecting them with an explanation.¹²

The Commission expects RPCs to ensure that they represent all public safety entities in their regions by providing reasonable notice of all meetings and deliberations. Further, regional plans must include an explanation of how all eligible entities within the region were given such notice.¹³ For the initial meeting called by the convener to form the RPC and hold elections, the Commission requires at least sixty days notice.¹⁴ In developing their regional plans, RPCs must ensure that their proposed plans comply with the rules and policies governing the 700 MHz public safety regional planning process.¹⁵ We also encourage the RPCs to consider utilizing the guidelines developed by the Public Safety National Coordination Committee (NCC).¹⁶ RPCs may approach the assignment of the spectrum differently, *e.g.*, by making specific assignments to eligible public safety entities, or by establishing an allotment pool approach based on political boundaries such as counties.

⁹ See Letter from Mark D. Pallans, Chairman, Region 27,700 MHz Regional Planning Committee, WT Docket No. 02-378 (filed Jan. 13, 2009) (submitting Revised Plan and updated letters of concurrence).

¹⁰ See Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Agency Communication Requirements Through the Year 2010, WT Docket No. 96-86, *First Report and Order and Third Notice of Proposed Rulemaking*, 14 FCC Rcd 152 (1998) (*First Report and Order*); *Second Memorandum Opinion and Order*, 15 FCC Rcd 16844 (2000); see also 47 C.F.R. § 90.527.

¹¹ See 47 C.F.R. §§ 90.527, 90.531. An RPC must incorporate certain common elements into its 700 MHz plan. The 700 MHz public safety band contains 24 MHz of spectrum for public safety services at 763-775 and 793-805 MHz, and the narrowband allocation is divided into segments by designated purpose: General Use, Interoperability, Secondary Trunking, State License, Low Power and Reserve channels. A list of 700 MHz RPCs and region activities is available at <http://www.fcc.gov/pshs/public-safety-spectrum/700-MHz>.

¹² *First Report and Order*, 14 FCC Rcd at 195 ¶ 87.

¹³ *Id.* at 193-94 ¶ 84. RPCs must promptly adopt operating procedures that “ensure that all entities will be given reasonable notice of all committee meetings and deliberations.” *Id.* at 195 ¶ 86.

¹⁴ *Id.* at 195 ¶ 86 & n.220.

¹⁵ See 47 C.F.R. § 90.527; see also *First Report and Order*, 14 FCC Rcd at 190-96 ¶¶ 77-89.

¹⁶ The NCC was a federal advisory committee established by the Commission in 1999 to address and advise the Commission on operational and technical parameters for use of the 700 MHz public safety band. In addition, the NCC was tasked with providing voluntary assistance in the development of coordinated regional plans, and developed a *Regional Planning Guidebook*. Following the sunset of the NCC's charter on July 25, 2003, the National Public Safety Telecommunications Council (NPSTC) agreed to continue to provide assistance to regional planners. A copy of the 700 MHz Regional Planning Guidebook is available at the NPSTC website, <http://www.npstc.org/nccsubcom.jsp>.

On July 31, 2007, the Commission adopted a *Second Report and Order* revising the rules governing wireless licenses in the 700 MHz band.¹⁷ The Commission adopted a plan for the 700 MHz band to establish a nationwide, interoperable public safety broadband communications network for the benefit of state and local public safety users. The Commission designated the lower half of the 700 MHz public safety band for broadband communications (763-768/793-798 MHz) and consolidated existing narrowband allocations in the upper half of the public safety 700 MHz band (769-775/799-805 MHz).

In revising the band plan for the public safety 700 MHz band, the Commission noted that consolidating the narrowband channels in the upper part of the band will impact approved and pending 700 MHz RPC plans (*i.e.* require that the plans be amended).¹⁸ The Commission required RPCs with approved plans or plans on file to submit amended plans consistent with the decisions adopted in the *Second Report and Order* by November 23, 2007.¹⁹ On November 9, 2007, the Public Safety and Homeland Security Bureau (the Bureau) extended the deadline for RPCs to submit amended plans, consistent with the decisions adopted in the *Second Report and Order*, to January 31, 2008, and provided additional guidance for the development of plan amendments.²⁰ In a Public Notice released December 27, 2007, the Bureau provided further guidance with respect to the submission of amended RPC plans.²¹

Review of the Region 27 Revised 700 MHz Plan. Region 27 convened its first meeting on January 22, 2003, wherein the RPC officers were elected.²² The Revised Plan includes By-laws,²³ a membership list,²⁴ an outreach notification process, and meeting announcements.²⁵ The Region 27 Chair has certified that all planning meetings were open to the public, pursuant to 47 C.F.R. § 90.531(a)(8).²⁶

¹⁷ Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band; Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, PS Docket No. 06-229, WT Docket No. 96-86, *Second Report and Order*, 22 FCC Rcd 15289 (2007) (*Second Report and Order*).

¹⁸ *Id.* at 15414 ¶ 346.

¹⁹ As of the adoption date of the *Second Report and Order*, the following regional plans had been approved: Region 5 (Southern California), Region 19 (New England), Region 24 (Missouri), Region 22 (Minnesota), Region 12 (Idaho), Region 39 (Tennessee), Region 43 (Washington), Region 41 (Utah), Region 3 (Arizona), and Region 40 (Northern Texas). The following regional plans were pending as of the adoption date of the *Second Report and Order*: Region 1 (Alabama), Region 27 (Nevada), Region 45 (Wisconsin), Region 7 (Colorado), Region 9 (Florida), Region 16 (Kansas), and Region 20 (Northern Virginia, Maryland and the District of Columbia).

²⁰ See Public Safety and Homeland Security Bureau Announces an Extension of the Deadline for 700 MHz Regional Planning Committees to Amend 700 MHz Narrowband Plans from November 23, 2007 to January 31, 2008, PS Docket No. 06-229, WT Docket No. 96-86, *Public Notice*, 22 FCC Rcd 19461 (PSHSB 2007).

²¹ See Public Safety and Homeland Security Bureau Reminds 700 MHz Regional Planning Committees of the January 31, 2008 Deadline to Amend 700 MHz Narrowband Plans and Provides Further Guidance, PS Docket No. 06-229, WT Docket No. 96-86, *Public Notice*, 22 FCC Rcd 21889 (PSHSB 2007).

²² See Revised Plan, Section 2.1 Notification Process at 5-6 (on October 14, 2002, a November 6, 2002 pre-planning meeting was announced by James A. Wilson, 800 MHz RPC Chair and 700 MHz Convener); *see also* Revised Plan, Appendix D – Meeting Attendance and Minutes at 35-44.

²³ See Revised Plan, Appendix A – By-Laws of the 700 MHz RPC Region 27.

²⁴ See Revised Plan, Appendix B – Region 27 Contact List and Information (includes Nevada Native American Tribes and represented public safety organizations).

²⁵ See Revised Plan, Appendix D – Meeting Attendance and Minutes (to encourage broad participation, meetings were held through the Nevada Department of Transportation (NDOT) statewide video conference facilities located at Elko, Ely, Las Vegas, Reno, Tonopah and Winnemucca). In addition, Region 27 maintains a 700 MHz list-serve

The Revised Plan outlines procedures for requesting spectrum allotments,²⁷ discusses the interoperability operational parameters, lists the 700 MHz band interoperability channels, and advises that the interoperability channels are administered by the Nevada Statewide Interoperability Executive Committee (SIEC).²⁸ Region 27 recommends a basic system design and efficiency requirements to facilitate interference protection criteria.²⁹ In addition, Region 27 supports the use of deployable systems, both conventional and trunked.³⁰ The Revised Plan pre-allocates the consolidated narrowband General Use spectrum by county³¹ and was coordinated with the six adjacent regions to Region 27: Region 3 (Arizona), Region 5 (Southern California), Region 6 (Northern California), Region 12 (Idaho), Region 35 (Oregon) and Region 41 (Utah).³²

On April 3, 2009, the Region 27 Revised Plan was placed on *Public Notice* for comment.³³ We received no comments. We have reviewed the Revised Plan submitted by Region 27 and conclude, based on the information before us, that it complies with FCC rules and policies. Accordingly, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.102(b) of the Commission's rules, 47 C.F.R. § 1.102(b), the Revised Region 27 (Nevada) 700 MHz Public Safety Plan is APPROVED.

This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392.

Action by the Chief, Policy Division, Public Safety and Homeland Security Bureau.

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at <http://groups.yahoo.com/group/reg27rpc/> and provided access to its draft plan at the NDOT website at <http://www.nevadadot.com/pub%5Finvolvement/RadioSpectrum/>.

²⁶ See Revised Plan, Section 9.0 Certification at 18-19.

²⁷ See Revised Plan, Section 3.0 Regional Plan Administration at 7-13 (details the application process, use of the CAPRAD database to facilitate FCC-certified frequency coordination, and provides operating parameters for the lower power "campus eligible" General Use channels); *see also* Revised Plan, Appendix F – Simplified 700 MHz Pre-Assignment Rules (process for coordinating initial block assignments of 700 MHz channels before details of actual system deployments are available).

²⁸ See Revised Plan, Section 7.0 Interoperability Channels at 16-18 (there are sixty-four 6.25 kHz interoperability channels); *see also* Revised Plan, Appendix E – Table of Interoperability Channels at 49-52.

²⁹ See Revised Plan, Section 6.0 System Design/Efficiency Requirements at 14-15.

³⁰ See Revised Plan, Section 7.3 Deployable Systems at 17-18.

³¹ See Revised Plan, Appendix G – Region 27 Channel Allocation Plan at 71-79 (submitted Aug. 14, 2008).

³² See Letter from Mark D. Pallans, Chairman, Region 27 700 MHz Regional Planning Committee, WT Docket No. 02-378 (filed Jan. 13, 2009) (submitting updated letters of concurrence); *see also* Revised Plan, Appendix H – Inter-regional Coordination Procedures and Procedures for Resolution of Disputes that May Arise under FCC Approved Plans (signed by all adjacent regions).

³³ See Comments Invited on Region 27 (Nevada) 700 MHz Regional Planning Committee Revised Public Safety Plan, PS Docket No. 06-229, WT Docket No. 02-378, *Public Notice*, 24 FCC Rcd 4083 (PSHSB 2009). Comments were due April 23, 2009, and reply comments were due May 4, 2009.